

EXHIBIT “1”

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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JAMES COPPAGE :
 :
 Plaintiff, : Civil Action
 :
 vs. : No.
 :
 : 1-18-cv-03823-
 :
 UNITED STATES STEEL : GLR
 :
 CORPORATION, et al., :
 :
 :
 Defendants. :

— — —

November 21, 2019

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Oral Deposition of ROBERT F. HERRICK, Sc.D., CIH, FAIHA, taken pursuant to Notice at Veritext-Boston, 101 Arch Street, Suite 650, Boston, Massachusetts 02110, beginning at 9:09 a.m. before Brigitte A. Strain, a Federally Approved Registered Professional Reporter and Notary Public.

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ROBERT F. HERRICK, Sc.D., CIH, FAIH43

1 Q. He was at the News-American
2 and the Baltimore Sun.

3 A. Right. No, this was more
4 focused on his time at the Alco group here.

5 Q. So, I mean, I don't want to
6 waste time on it. There's nothing in your
7 conversation with Mr. Southworth that gave
8 you any more information about any use of
9 the Hanco solvent at any workplace where Mr.
10 Coppage was; is that right?

11 A. That's right.

12 Q. Okay. I'm going to save this
13 one. Let's move on.

14 Now, in the report that you
15 issued in this case, you evaluated your
16 exposure assessment for the solvents used by
17 Mr. Coppage using the near-field/far-field
18 model. Is that right?

19 A. That's correct. Yep.

20 Q. And you would agree with me
21 that an important part of the use of that
22 model is the benzene emission rate. Right?

23 A. It is, yes.

24 Q. And in order to do the benzene

ROBERT F. HERRICK, Sc.D., CIH, FAIH44
1 emission rate, it's important to know the
2 benzene content of the product. Right?

3 A. That's correct, yes.

4 Q. And we've already established,
5 I think -- and you tell me if I'm wrong
6 because I'm not trying to state your
7 testimony. Okay? I'm just trying to ask you
8 questions. You could not have relied on Mr.
9 Coppage's testimony to determine the benzene
10 content of the solvent he used because he
11 never identified it. Is that right?

12 A. Right. I didn't have that
13 information from Coppage.

14 Q. So, based on your report, as I
15 understand it, you relied on another
16 deposition taken of a Mr. Graham; is that
17 right?

18 A. That's correct, yeah.

19 Q. And you used that deposition
20 to arrive at your assumption that the
21 benzene content of the solvent used at the
22 Baltimore Sun and the News-American for the
23 period 1960 to 1969 contained 50 percent
24 benzene. Right?

ROBERT F. HERRICK, Sc.D., CIH, FAIH51
1 was general purpose cleaning.

2 Q. And if that assumption is
3 wrong, then the basis for this 50 percent
4 benzene is wrong.

5 MR. DuPONT: Objection, form.

6 THE WITNESS: Well, I'd have
7 to look. I mean, it's possible that
8 if there's a different number, it
9 would have, you know, resulted in a
10 different calculation.

11 BY MR. CAIRONE:

12 Q. Please answer my question,
13 Doctor. You just said that you assumed this
14 was a general purpose cleaner. Right?

15 A. Right.

16 Q. If that assumption is wrong,
17 then your use of this product as the basis
18 of your assumption of the benzene content is
19 wrong.

20 A. It would require a different
21 value if the benzene content was different,
22 yeah.

23 Q. And if it requires a different
24 value, it's wrong.

ROBERT F. HERRICK, Sc.D., CIH, FAIH52

1 MR. DuPONT: Objection, form.

2 THE WITNESS: Okay. I could
3 recalculate it. It would give us a
4 different answer.

5 BY MR. CAIRONE:

6 Q. Right. I think that's an
7 answer, although not clear.

8 Now, what I want to show you,
9 though is, just above the passage of this
10 deposition that you use for your assumption,
11 just above it, it says -- I'm sorry, not
12 just above it, but it's on page 244, which
13 isn't far above it.

14 Now, we're talking about
15 MS-408. Okay? Are you with me?

16 A. Yep.

17 Q. Line 22, page 244.

18 "In any event, it's your
19 understanding, based on looking at the
20 documents, that Hancolite, which was MS-408,
21 would have been purple in color during the
22 '60s and '70s and early '80s. Correct?"

23 Answer: "Violet, purple.

24 However, yes, it was shaded."

ROBERT F. HERRICK, Sc.D., CIH, FAIH87

1 Chang is?

2 A. No, I'm sorry. It doesn't
3 ring a bell.

4 Q. So you didn't consult with any
5 of the other plaintiff experts in this case
6 before writing your report or before giving
7 this deposition?

8 A. Correct, I did not.

9 Q. In terms of the scope of your
10 retention, obviously from your report it
11 would be correct to say that you were
12 retained by MR. DuPONT to come up with a
13 cumulative dose calculation or assessment to
14 benzene for Mr. Coppage for his career as a
15 pressman; correct?

16 MR. DuPONT: Form.

17 THE WITNESS: The only
18 distinction I would draw was that I
19 was really asked to estimate the
20 cumulative exposure. That is,
21 overall dose.

22 BY MS. PROSSER:

23 Q. Oh, okay. Were you given any
24 other assignments by counsel for this case?

ROBERT F. HERRICK, Sc.D., CIH, FAIH88

1 A. No. That's been pretty much
2 the scope of my work on this.

3 Q. So you're certainly not going
4 to come to trial and give us any causation
5 opinions. Correct?

6 A. Right. That's really not my
7 area.

8 Q. And you're not going to come
9 to trial and give an opinion about whether
10 or not Mr. Coppage was at an increased risk
11 of developing the bone marrow disorder that
12 he developed because of his work as a
13 pressman. Correct?

14 A. That's correct.

15 Q. After you finished and
16 completed your report, did you read any of
17 the reports of the defense expert?

18 A. I did.

19 Q. Did you read Robert Adams'
20 report?

21 A. I did.

22 Q. And what other reports of the
23 defendants did you review?

24 A. I read the report from Mr.

ROBERT F. HERRICK, Sc.D., CIH, FAI106
1 call the lower flammable limit, which, in
2 the case of benzene -- I know this because
3 it came up before. In the case of benzene
4 it's something like 12,000 parts per
5 million, is the lowest level that's
6 flammable in air.

7 And so that's really -- you
8 know, in terms of thinking about the risk of
9 fire or explosion, that's really the better
10 metric to apply than the flash point.

11 Q. Dr. Herrick, would it surprise
12 you that in the MS-408 materials, such as
13 the MSDSs, it states unequivocally that this
14 is a highly flammable and explosive product
15 that has to be stored in a cool, dry place
16 away from any heat sources. Would that
17 surprise you?

18 MR. DuPONT: Objection, form.

19 THE WITNESS: No.

20 BY MS. PROSSER:

21 Q. And you know that at
22 News-American, the 55-gallon drums of
23 solvents were stored in the pressroom right
24 next to the presses and were there during

ROBERT F. HERRICK, Sc.D., CIH, FAI107
1 the press operation. Correct?

2 MR. DuPONT: Compound, form.

3 THE WITNESS: I remember that
4 being the recollection. I can't
5 recall if it was Coppage or
6 Stallings, but I do remember that
7 being mentioned, yeah.

8 BY MS. PROSSER:

9 Q. So would it not have been
10 reckless on the part of the News-American or
11 the Baltimore Sun to store a 55-gallon drum
12 at a flash point of less than 20 degrees
13 Fahrenheit? A highly flammable, highly
14 explosive product, to store it right next to
15 presses that are in operation, generating
16 heat and potentially sparks?

17 MR. DuPONT: Objection. That
18 calls for a legal conclusion and
19 something that's the province of the
20 jury to determine, the ultimate issue
21 in the case.

22 MS. PROSSER: No, I'm not
23 asking a legal -- I'm asking reckless
24 from an IH standpoint.

ROBERT F. HERRICK, Sc.D., CIH, FAI108

1 MR. DuPONT: And it's also the
2 ultimate --

3 MS. PROSSER: It's a very
4 specific question.

5 MR. DuPONT: It's the province
6 of the jury to decide an ultimate
7 issue in the case, not the experts.

8 BY MS. PROSSER:

9 Q. Please answer my question,
10 Doctor.

11 A. Sure. I guess I'd be a little
12 reluctant to apply the term reckless, you
13 know, not knowing the real details of
14 exactly where everything was.

15 Q. Would it be good industrial
16 hygiene practice to store a 55-gallon drum
17 of a solvent that has less than a 20 degree
18 Fahrenheit flash point, and is warned about
19 as being highly explosive and highly
20 flammable, in a pressroom right next to
21 presses that are in operation, generating
22 heat?

23 MR. DuPONT: Form, compound,
24 foundation.

ROBERT F. HERRICK, Sc.D., CIH, FAI109

1 THE WITNESS: Well, with the
2 caveat, you know, as I said before,
3 that the flash point isn't really the
4 most relevant characteristic to
5 consider here, I think in general you
6 could say that it's not best practice
7 to have materials like that in places
8 where there is heat being generated.

9 BY MS. PROSSER:

10 Q. So that would be another
11 reason that you could consider as to
12 question your identity of the MS-408 as
13 being one of the solvents that was in use at
14 the Baltimore Sun and at News-American from
15 1960 to '69; correct?

16 MR. DuPONT: Form, compound.

17 THE WITNESS: Well, you know,
18 that single thing, you know, not
19 really knowing the details, you know,
20 as I mentioned before, I don't know
21 that I would consider that to be, you
22 know, conclusive evidence one way or
23 the other.

24 BY MS. PROSSER:

ROBERT F. HERRICK, Sc.D., CIH, FAI115

1 Q. Yes. It's the second product
2 listed on that page. Hancolite Glaze
3 Cleaner.

4 A. I see it, yes.

5 Q. All right. Now, you know the
6 difference between offset printing and
7 letterpress printing, I take it, right?

8 A. In a general sense. Yeah.

9 Q. Okay. So we know from the
10 deposition of Mr. Coppage and Mr. Stallings
11 that the printing presses at News-American,
12 from 1960 to '69, were letterpress, not
13 offset. Correct?

14 A. That's my recollection. Yeah.

15 Q. And the same is true for the
16 Baltimore Sun from 1960 to '69. The presses
17 were letterpress, not offset. Correct?

18 A. That sounds right. I think I
19 remember that, yeah.

20 Q. And this document that we
21 opened up, 000127, states that Hancolite
22 Glaze Cleaner is for offset blankets and
23 press rollers. Do you see that?

24 A. I do see that, yes.

ROBERT F. HERRICK, Sc.D., CIH, FAI118
1 want to take a deposition using
2 documents, it's your responsibility
3 to have the documents prepared for
4 the witness to look at, not mine.

5 BY MS. PROSSER:

6 Q. Do you understand that offset
7 printing, Dr. Herrick, is, you don't use
8 raised letters like you do on the
9 letterpress, but you use plates that have an
10 image on them?

11 A. I do understand that, yeah.

12 Q. Okay. I'm going to read you
13 from the exhibit to Mr. Graham's Affidavit
14 attached to Mr. Adams' report at H-D001996.
15 And it's a brochure about a Handschy
16 product. This was attached to Mr. Graham's
17 Affidavit. And it says at the top, MS-408
18 Hancolite. And it says --

19 MR. DuPONT: Counsel, you're
20 going to have to hold on for a
21 second.

22 Which Bates number are you
23 referring to?

24 MS. PROSSER: D001996. And

ROBERT F. HERRICK, Sc.D., CIH, FAI123

1 continue?

2 A. Let's do it. Yep.

3 Q. Okay. So there were five
4 products named in the First Amended
5 Complaint filed by Mr. DuPont. One of them
6 was a Hancolite Glaze Cleaner that we've
7 already talked about. Another one was the
8 Steel Roller Deoxidizer, and then there was
9 a special type wash, Plasaver, spelled
10 P-L-A-S-A-V-E-R, And Plabuilder, spelled
11 P-L-A-B-U-I-L-D-E-R. You have no information
12 or opinion that any of these four other
13 products, setting aside the Hancolite Glaze
14 Cleaner, were the solvent that was
15 identified by Mr. Stallings as the Hanco
16 solvent. Is that correct?

17 MR. DuPONT: Compound.

18 THE WITNESS: Well, he didn't
19 really provide that level of
20 information. So, you know, I don't
21 have any indication from him about
22 those particular products, no.

23 BY MS. PROSSER:

24 Q. Okay. I just want to make sure

ROBERT F. HERRICK, Sc.D., CIH, FAI124

1 I understood your answer. Are you going to
2 be testifying at trial that the Hanco
3 solvent identified by Mr. Stallings was the
4 Steel Roller Deoxidizer?

5 A. I don't believe he provided
6 any information that would support that.

7 Q. Are you going to testify at
8 trial that the Hanco solvent identified by
9 Mr. Stallings was the Special Type Wash?

10 MR. DuPONT: Form.

11 THE WITNESS: Same answer. I
12 don't think that, you know, he
13 provided that level of specificity.

14 BY MS. PROSSER:

15 Q. Are you going to testify at
16 trial that the Hanco solvent identified by
17 Mr. Stallings was Plasaver?

18 MR. DuPONT: Form.

19 THE WITNESS: Again, same
20 answer. He didn't really specify
21 that.

22 BY MS. PROSSER:

23 Q. Are you going to testify at
24 trial that the Hanco solvent identified by

ROBERT F. HERRICK, Sc.D., CIH, FAI125

1 Mr. Stallings was Plabuilder?

2 MR. DuPONT: Form.

3 THE WITNESS: Same answer. He
4 didn't really provide that level of
5 information.

6 BY MS. PROSSER:

7 Q. Are you going to testify at
8 trial that the Hanco solvent identified by
9 Mr. Stallings was Hancolite Glaze Cleaner
10 MS-408?

11 A. Well, I think what we have in
12 the information is that the material that he
13 was using was a benzene-containing solvent
14 from Hancolite. You know, that's what I
15 think the evidence that we've been able to
16 pull out of this supports.

17 Q. Where do you find the facts in
18 the evidence of the record of this case that
19 the Hancolite solvent being used was
20 benzene-containing?

21 MR. DuPONT: Objection, form.

22 THE WITNESS: Well, I would
23 point to the information that, say,
24 Stallings provided about the

ROBERT F. HERRICK, Sc.D., CIH, FAI126
1 characteristics he remembered of the
2 solvent. That it was sweet smelling.
3 What he remembered about the
4 evaporation rate, that it evaporated
5 quickly. The fact that it was
6 irritating to the skin. Those, to
7 me, would all suggest that, you know,
8 there is a high likelihood that that
9 material was benzene-containing.

10 BY MS. PROSSER:

11 Q. And when you say
12 benzene-containing, are you contemplating a
13 solvent where benzene was not an added
14 ingredient, but rather was a trade
15 contaminant as a result of the commercial
16 refinery manufacturing processes for
17 solvents?

18 MR. DuPONT: Objection, form.

19 THE WITNESS: I would say more
20 of the former. That it was, you know
21 -- you know, an ingredient that was,
22 you know, intentionally incorporated.
23 And that would be, you know, partly
24 based on the evaporation rate.

ROBERT F. HERRICK, Sc.D., CIH, FAI127

1 You know, when you look at
2 some of these other materials, like
3 some of the mineral spirits products
4 that, you know, can contain benzene,
5 but in much lower concentrations, you
6 know, those tend not to evaporate
7 anywhere near as quickly as the way
8 this product was described.

9 BY MS. PROSSER:

10 Q. Are you aware that there were
11 only four products ever manufactured by
12 Handschy that had benzene as an
13 intentionally added ingredient?

14 MR. DuPONT: Form.

15 THE WITNESS: That does sound
16 familiar. I think that was mentioned
17 in -- what's his -- I forgot the name
18 of the gentleman who was deposed from
19 the company, but that does sound like
20 a familiar value, yeah.

21 BY MS. PROSSER:

22 Q. And you cannot testify, to a
23 reasonable degree of scientific certainty,
24 that the Hanco solvent identified by Mr.

ROBERT F. HERRICK, Sc.D., CIH, FAI128
1 Stallings at News-American and at the
2 Baltimore Sun from 1950 to '69 was one of
3 the four that has benzene as an added
4 ingredient among the Handschy products.
5 Correct?

6 MR. DuPONT: Objection, form.

7 THE WITNESS: You know, I
8 don't see enough information in the
9 record to, you know, get to that
10 point.

11 BY MS. PROSSER:

12 Q. Now, I'm just skipping around
13 in my notes here to try to wrap things up.

14 Are you familiar with the
15 term, state of the art?

16 A. In a general sense, I think,
17 yeah.

18 Q. Okay. I just want to make
19 sure I've nailed down what you are and are
20 not going to be testifying to at trial.

21 You have not been retained to
22 provide a state of the art opinion regarding
23 what Defendant Handschy should have known
24 about the dangers of benzene from 1960 to

ROBERT F. HERRICK, Sc.D., CIH, FAI132
1 mean, if you think about the
2 technology, a lot of the inks that
3 were used, you know, were
4 benzene-containing themselves. So it
5 makes sense that the material that
6 was used to clean the inks also was
7 benzene-containing.

8 BY MS. PROSSER:

9 Q. Right. I guess I'm not being
10 clear, and I apologize. I'm just trying to
11 get to a very simple concept. The term
12 general purpose cleaning solvent doesn't
13 tell you by that term whether benzene was
14 present as a contaminant or whether benzene
15 was present as an added ingredient. You
16 would have to know what the constituents of
17 that solvent were to be able to answer the
18 question as to what percentage, if any, of
19 benzene was in that product. Is that
20 correct?

21 MR. DuPONT: Form. Vague
22 content.

23 THE WITNESS: Yeah, I think
24 that's a fair characterization. Yeah.

ROBERT F. HERRICK, Sc.D., CIH, FAI304
and answered.

THE WITNESS: It was more of
the latter. There's other people who
were going to speak to that point,
and so that was the basis for my not
engaging it.

BY MS. PROSSER:

Q. All right, new topic. On page
32 of your report you have the cumulative
benzene exposure, 123.14 ppm years. And
we've already established that it's total
benzene exposure from his work as a
pressman; correct?

A. That's -- that's my
calculation, yeah.

Q. So have you been asked to do a
Handschy or a Hanco specific cumulative dose
assessment for Mr. Coppage?

A. No, I haven't been.

Q. And based on everything you've
read and the questioning today, and any new
information that you learned about the Hanco
solvent or about Handschy products, do you
have any intention to do a Handschy or Hanco

ROBERT F. HERRICK, Sc.D., CIH, FAI305
1 specific cumulative exposure assessment?

2 MR. DuPONT: Objection, form.

3 THE WITNESS: That's not my
4 intention, no.

5 BY MS. PROSSER:

6 Q. On the last page of your
7 report, it says, on the second full
8 paragraph, "I consider these to be
9 underestimates of Mr. Coppage's total
10 benzene exposure." And then we don't need to
11 read the rest of the sentence.

12 Is it your sworn testimony,
13 under oath, based on everything that you've
14 heard and reviewed, including the
15 questioning today, that you believe that you
16 have underestimated Mr. Coppage's total
17 benzene exposure?

18 A. Yeah, I do because I didn't
19 try to account for any contribution that
20 might have been from an external exposure
21 source.

22 Q. So based on information that
23 you reviewed today under questioning by
24 myself and Mr. Cairone regarding the Hanco

ROBERT F. HERRICK, Sc.D., CIH, FAI307

1 been needed to accurately quantify
2 it.

3 BY MS. PROSSER:

4 Q. Assuming hypothetically that
5 the Hanco solvent that is identified by Mr.
6 Stallings had only trace benzene as a
7 contaminant, and not benzene as an added
8 ingredient, would you agree that you have
9 over estimated Mr. Coppage's total benzene
10 exposure?

11 MR. DuPONT: Objection, form,
12 incomplete hypothetical.

13 THE WITNESS: Well, if any of
14 the ingredients, or any of the
15 materials that he handled had a
16 different benzene content than I used
17 in my calculations, then the result
18 of the calculation would, in fact, be
19 different, yeah.

20 BY MS. PROSSER:

21 Q. And it would be an
22 overestimation; correct?

23 MR. DuPONT: Objection, form,
24 incomplete hypothetical.

ROBERT F. HERRICK, Sc.D., CIH, FAI308

1 THE WITNESS: Well, you know,
2 in the hypothetical that you posed,
3 if the content in the solvent was
4 lower than the calculator, that his
5 actual exposure would, in fact, be
6 lower, yeah.

7 BY MS. PROSSER:

8 Q. Now, at the bottom of your
9 last page, you say, "If additional
10 information becomes available, I reserve the
11 right to modify, amend or supplement this
12 report."

13 Do you have any intention to
14 modify, amend, or supplement this report
15 with respect to anything related to Handschy
16 or Hanco?

17 MR. DuPONT: Objection, lacks
18 foundation, form.

19 THE WITNESS: As I'm sitting
20 here today, I don't have any
21 intention to amend or modify this
22 report in any way.

23 MS. PROSSER: Thank you,
24 that's all I have.